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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,040	09/28/2001	Max L. Musser	BELL-0124/01118	4570

38952 7590 06/16/2005

WOODCOCK WASHBURN LLP  
ONE LIBERTY PLACE - 46TH FLOOR  
PHILADELPHIA, PA 19103

EXAMINER
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WOOD, WILLIAM H

ART UNIT	PAPER NUMBER
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2193

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/966,040

Applicant(s)

MUSSER ET AL.

Examiner

William H. Wood

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,11-16 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11-16 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Claims 1-2, 4-9, 11-16 and 20 are pending and have been examined.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-2, 4-9, 11-16 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Newly added limitation "initiating a single contact with a multiplexor and, through the single contact, identifying software on each of a plurality of firmware cards ... and on a firmware card located in a network" is not supported by the originally filed disclosure and as such an appropriate correction should be made.

3. Claim 1-2, 4-9, 11-16 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Newly added limitation "initiating a single contact with a multiplexor and, through the single contact, identifying software on each of a plurality of

firmware cards ... and on a firmware card located in a network” is not enabled by the originally filed disclosure and as such an appropriate correction should be made.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 7 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Goody** (USPN 6,097,721) in view of **Northcutt** et al. (USPN 6,678,741).

Rejections of Office Action 22 October 2004 are substantially maintained and not repeated for brevity.

**Claims 1 and 20**

**Goody** and **Northcutt** further disclosed initiating a single contact with a multiplexor and, through the single contact, identifying software on each of a plurality of firmware cards ... and on a firmware card located in a network (**Northcutt**: column 2, lines 52-55; **Goody**: figure 3).

6. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Goody** (USPN 6,097,721) in view of **Northcutt** et al. (USPN 6,678,741) and in further

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view of **Parry** et al (USPN 6,175,552). Rejections of Office Action 22 October 2004 are substantially maintained and not repeated for brevity.

7. Claims 8-9, 11-12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Goody** (USPN 6,097,721) in view of **Northcutt** et al. (USPN 6,678,741) and in further view of **Reddy**, "Prospects for Fiber to the Home (FTTH)". Rejections of Office Action 22 October 2004 are substantially maintained and not repeated for brevity.

**Claim 8**

**Goody** and **Northcutt** further disclosed initiating a single contact with a multiplexor and, through the single contact, identifying software on each of a plurality of firmware cards ... and on a firmware card located in a network (**Northcutt**: column 2, lines 52-55; **Goody**: figure 3).

8. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Goody** (USPN 6,097,721) in view of **Northcutt** et al. (USPN 6,678,741) in view of **Reddy**, "Prospects for Fiber to the Home (FTTH)" and in further view of **Parry** et al. (USPN 6,175,552). Rejections of Office Action 22 October 2004 are substantially maintained and not repeated for brevity.

**Response to Arguments**

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9. Applicant's arguments filed 21 January 2005 have been fully considered but they are not persuasive. Applicant argues **Northcutt** is limited to "device-by-device", which requires a contact for every device in a network (Remarks: page 9). Upon review of the newly amended claims and the cited prior art, this argument is found, respectfully, unpersuasive. As shown above, **Northcutt** demonstrates the ability to provide updates to a number of devices (column 2, lines 52-55). **Goody** clearly shows multiple devices in a single network (figure 3). Thus, only one contact is needed to bring **Northcutt's** method into an network of multiple devices. Therefore, under the broadest reasonable interpretation of the claim language, the rejections are maintained as indicated above.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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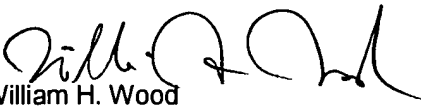
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

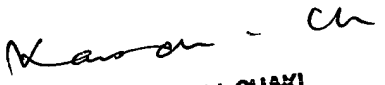
***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 9:00am - 5:30pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)-272-3719. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9306 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

  
William H. Wood  
June 10, 2005

  
KAKALI CHAKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100